

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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ELECTRONICALLY FILED  
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DATE FILED: 12/23/19

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UNITED STATES OF AMERICA	:	<u>CONSENT PRELIMINARY ORDER OF</u>
	:	<u>FORFEITURE/MONEY JUDGMENT</u>
-v.-	:	
	:	S3 17 Cr. 569 (ER)
JAMES TONER,	:	
	:	
Defendant.	:	
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WHEREAS, on or about December 12, 2018, JAMES TONER, (the “defendant”), was charged, among others, in a one-count Superseding Information, S3 17 Cr. 569 (ER) (the “Information”), conspiracy to commit wire fraud, in violation of Title 18, United States Code, Sections 371 and 1343 (Count One);

WHEREAS, the Information included a forfeiture allegation as to Count One of the Information, seeking forfeiture to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C), and Title 28, United States Code, Section 2461(c), any and all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of the alleged offense, including but not limited to a sum of money in United States currency representing the amount of proceeds traceable to the commission of the alleged offense that the defendant personally obtained;

WHEREAS, on or about December 12, 2018, the defendant pled guilty to Count One of the Information, pursuant to a plea agreement with the Government, wherein the defendant admitted the forfeiture allegation with respect to Count One of the Information and agreed to forfeit a sum of money equal to \$48,000 in United States currency, representing the amount of proceeds derived from the offense in Count One of the Information;

WHEREAS, the defendant consents to the entry of a money judgment in the amount of \$48,000 in United States currency representing the amount of proceeds traceable to the offense charged in Count One of the Information that the defendant personally obtained; and

IT IS HEREBY STIPULATED AND AGREED, by and between the United States of America, by its attorney Geoffrey S. Berman, United States Attorney, Assistant United States Attorneys Olga Zverovich and Michael McGinnis, of counsel, and the defendant and his counsel, Rodney Villazor, Esq., that:

1. As a result of the offense charged in Count One of the Information, to which the defendant pled guilty, a money judgment in the amount of \$48,000 (the "Money Judgment") in United States currency, representing the amount of proceeds traceable to the offense charged in Count One of the Information that the defendant personally obtained, shall be entered against the defendant.

2. Pursuant to Rule 32.2(b)(4) of the Federal Rules of Criminal Procedure, this Consent Preliminary Order of Forfeiture/Money Judgment is final as to the defendant, JAMES TONER, and shall be deemed part of the sentence of the defendant, and shall be included in the judgment of conviction therewith.

3. All payments on the outstanding money judgment shall be made by postal money order, bank or certified check, made payable, in this instance, to the United States Department of Treasury, and delivered by mail to the United States Attorney's Office, Southern District of New York, Attn: Money Laundering and Asset Forfeiture Unit, One St. Andrew's Plaza, New York, New York 10007 and shall indicate the defendant's name and case number.

4. The United States Department of Treasury or its designee shall be authorized to deposit the payment on the Money Judgment in the Treasury Assets Forfeiture Fund, and the United States shall have clear title to such forfeited property.

5. Pursuant to 21 U.S.C. § 853(p), the United States is authorized to seek forfeiture of substitute assets of the defendant up to the uncollected amount of the Money Judgment.

6. Pursuant to Rule 32.2(b)(3) of the Federal Rules of Criminal Procedure, the United States Attorney's Office is authorized to conduct any discovery needed to identify, locate or dispose of forfeitable property, including depositions, interrogatories, requests for production of documents and the issuance of subpoenas.

7. The Court shall retain jurisdiction to enforce this Consent Preliminary Order of Forfeiture/Money Judgment, and to amend it as necessary, pursuant to Rule 32.2 of the Federal Rules of Criminal Procedure.

8. The Clerk of the Court shall forward three certified copies of this Consent Preliminary Order of Forfeiture/Money Judgment to Assistant United States Attorney Alexander J. Wilson, Chief of the Money Laundering and Asset Forfeiture Unit, United States Attorney's Office, One St. Andrew's Plaza, New York, New York 10007.


9. The signature page of this Consent Preliminary Order of Forfeiture/Money Judgment may be executed in one or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument.

AGREED AND CONSENTED TO:

GEOFFREY S. BERMAN

United States Attorney for the  
Southern District of New York

By: \_\_\_\_\_

  
OLGA ZVEROVICH  
Assistant United States Attorney  
One St. Andrew's Plaza  
New York, N.Y. 10007  
Office: (212) 637-2514

12/17/19  
DATE

JAMES TONER  
DEFENDANT

By: \_\_\_\_\_

  
JAMES TONER

12/17/19  
DATE

By: \_\_\_\_\_

  
RODNEY VILLAZOR, ESQ.  
Attorney for JAMES TONER

12/17/2019  
DATE

SO ORDERED:

  
HONORABLE EDGARDO RAMOS  
UNITED STATES DISTRICT JUDGE

12/17/19  
DATE